The Effect of Penal Legitimacy on Prisoners' Post-Release Desistance

Daniel McCarthy and Ian Brunton-Smith

ABSTRACT

Studies of procedural justice and legitimacy have shown that where legal actors employ formal rules in ways that are perceived to be fair and consistent by those policed, greater compliance and cooperation with the law can be achieved. A growing number of studies have assessed how legitimacy and compliance are related using general population samples, but few studies have tested these links amongst offending groups. Drawing on data from a longitudinal survey of prisoners across England and Wales, we find that prisoners who perceive their experience of prison as legitimate are more likely to believe that they will desist from crime. However, despite the existence of desistance beliefs, these do not translate into similar effects of legitimacy on proven reconviction rates a year post-release.

INTRODUCTION

According to Tyler's (2006) procedural justice model, citizens who perceive authorities as legitimate are more likely to comply with their demands and trust their use of authority. Treating citizens in ways perceived to be fair can help authorities to establish greater compliance and cooperation with the public (Jackson et al., 2012; Mazerolle et al., 2013; Sunshine and Tyler, 2003). Even when considering groups who are subject to formal law enforcement attention (i.e. being stopped and frisked, charged or found guilty of committing a crime) those who believe that they are treated fairly and that procedures are followed consistently are more likely to comply with the law in future. This is true even if the *outcome* of their experience is not to their satisfaction (Fagan and Piquero, 2007; Paternoster et al., 1997; Penner et al., 2013; Sunshine and Tyler, 2003; Wallace et al., 2016).

The empirical association between compliance and cooperation with the law has been tested overwhelmingly through general population samples. As a result, we know little about whether or not the same processes of legitimacy building can influence desistance outcomes (e.g. changes in self-identities and attitudes towards offending, or reductions in risks of reoffending) amongst prisoners. Unlike the general population, prisoners are in continual contact with the criminal justice system, making them particularly susceptible to the potential negative impacts of unfair treatment. Many prisoners have also experienced repeated contact during their lives with the law and penal establishments, as well as having high rates of recidivism (Petersilia, 2003; Sampson, 2014). Higher levels of legal cynicism (Reisig, Wolfe & Holtfreter, 2011) may also exist amongst active offenders, affecting the ways they perceive interactions with correctional staff and other criminal justice officials. Transitions to life post-incarceration are also notoriously challenging, with potential limits placed on the capacities for personal change and desistance once offenders are released (Travis 2005).

The focus on understanding how in-prison experiences also relate to post-release desistance remains a topic we know comparatively little about in criminology. Previous research has found prison officers and the prison establishment as a whole can affect prisoner behavior during the sentence, including their obligation to comply with prison authority (Brunton-Smith and McCarthy, 2015; Franke et al., 2010; Reisig and Mesko, 2009; Sparks and Bottoms, 1995). Studies have also shown that where offenders regard their contact with criminal justice personnel as legitimate this can result in lower risks of re-arrest and recidivism (Paternoster et al., 1997; Penner et al., 2013; Wallace et al., 2016). These findings suggest that prisoners' experiences of legitimate or procedurally fair contact with prison authorities may play a role in positive behavioral change through limiting defiance (Sherman, 1993), reducing shame (Braithwaite, 1989), as well as influencing the moral alignment of prisoners (e.g. Tyler and Lind, 1992). There is therefore good reason to expect that those offenders who are incarcerated but experience their time inside prison as legitimate and procedurally fair will feel more obliged to obey the law upon release.

In this study we test whether perceptions of procedurally fair and legitimate contact with prison authorities influences prisoners' *actual* post-release recidivism and *beliefs* about their future desistance. Drawing on previous research which has identified links between legitimacy and recidivism amongst incarcerated (Berjersbergen et al, 2016) and non-incarcerated offending groups (Fagan and Piquero 2007; Paternoster et al., 1997; Penner et al., 2013; Wallace et al., 2016), we test whether or not positive experiences of prison life reduce reoffending risk and desistance attitudes. Our data is the Surveying Prisoner Crime Reduction study, a longitudinal survey of prisoners in England and Wales which tracks prisoner experiences throughout the duration of their sentence, whilst also capturing prisoner attitudes towards offending and their own assessments of recidivism risk. We find evidence that legitimacy shapes offenders' beliefs about their likely desistance from crime, but has no

direct link with reoffending levels one year after release. This suggests that whilst legitimacy may be influential in promoting an enhanced motivation to desist from crime, this is not sufficient to translate into actual desistance.

LEGITIMACY AND PROCEDURAL FAIRNESS

Tyler's (2006) conceptualization of legitimacy is based on understanding how experiences of procedural fairness are bound up with peoples' obligation to obey the law. Procedural fairness can be described as the combination of the decision making process (i.e. whether people are treated fairly, and perceive legal procedures to have been followed correctly) and the quality of treatment received (i.e. being treated with respect and dignity). The deployment of procedural fairness in citizen–authority encounters has been shown to be a core mechanism determining whether or not the public accept the immediate decision by the authority, as well as affecting their overall evaluation of the authority's actions and mandate as legitimate. Four core elements of legitimacy have been identified as important in the context of prisons – voice, neutrality, trust and respect (Tyler, 2010). *Voice* refers to giving prisoners the opportunity to state their case, *neutrality* is the fair application of rules and procedures, *trust* means that prison authorities are driven by genuine values in supporting prisoners, and *respect* involves treating prisoners politely, calmly and courteously, together with honesty and sincerity.

Empirical applications of Tyler's model of legitimacy have been undertaken by several scholars within the context of prisons (Franke et al., 2010; Reisig and Mesko, 2009; Sparks and Bottoms, 1995). Sparks and Bottoms (1995), and Reisig and Mesko (2009) identify the importance of legitimacy as a measure of order and compliance in prison. They show that the degree to which prisons communicate fair treatment and respect for prisoners, together with achieving safe, secure and stable order can have important implications for

prisoner behavior. Franke et al., (2010) examined the experiences of prisoners in a boot camp and traditional prison facility, finding that those inmates who perceived their treatment by staff to be more procedurally fair were more likely to leave the institution with higher legitimacy ratings of the justice system. These findings also controlled for age, race and criminal history, demonstrating a robust link from treatment by staff to prisoners' legitimacy.

Studies of legitimacy have also recognized how the 'moral performance' of prisons can shape the attitudes and behaviors of prisoners and prison staff (e.g. Sparks and Bottoms, 1995; Hulley, Liebling and Crewe, 2012; Liebling, 2004). Liebling (2011) argues that the moral qualities of the prison are embodied and enacted in the attitudes and conduct of prison officers. Prison is a site where there are considerable power imbalances, yet 'when authority is used by the competent, and in the service of some higher ideal, it is more acceptable' (Liebling, 2011: 486). How prisoners interpret their treatment by prison staff, and indeed the prison facility more generally is far from certain. Crewe (2011) shows that prisoners are highly sensitized to the varying treatment they receive from prison officers, often reacting critically to officer enforcement. Prisoners can be notably suspicious of prison authority as a result of direct and indirect negative experiences of inconsistent, unjust, or even brutal treatment. This may lead prisoners to interpret even the good intentions of prison officers as simply a 'charade' or a 'psychological threat' (Crewe, 2011: 458). Achieving legitimacy in prison is therefore a notoriously tentative process. Unlike in the context of policing or courts where operations by police officers and legal actors are observed infrequently even amongst active offenders, within prison the use of authority is highly visible and continually being monitored and judged by prisoners.

The established rules, their enforcement, and compliance amongst prisoners reflect the internal moral and social conditions of prison life (e.g. safety, humanity, reasonable living conditions). Such conditions also communicate to prisoners their intrinsic value as human

beings (Franke et al., 2010; Reisig and Mesko, 2009; Sparks and Bottoms, 1995). This is reflected in a growing body of research highlighting that the public (see Jackson et al., 2012; Tyler, 2006 for reviews), and offending populations (Fagan and Piquero, 2007; Paternoster et al., 1997; Penner et al., 2013; Wallace et al., 2016), are more likely to comply with the law if they believe that its values and nature of enforcement are procedurally fair and legitimate. Fair and procedurally just treatment conveys to people that they have intrinsic worth and value as human beings. This can help facilitate a process of *moral alignment (*Tyler and Lind, 1992, Jackson et al., 2012) which has been understood as communicating membership of a shared moral group between the authorities and the public which can help people to feel a sense of collectivity in their orientation towards normative social behavior.

Moral alignment is, however, complicated by the correctional environment; with the closed world of a prison ensuring news of even the slightest injustice travels fast (Sparks abd Bottoms, 1995, Bottoms and Tankebe, 2012). Perceptions of legitimacy towards criminal justice agencies have also been found to be lower amongst those offenders who have been previously incarcerated (Piquero et al., 2005), older prisoners (Brunton-Smith and McCarthy, 2015), minority groups (Brunton-Smith and McCarthy, 2015; Murphy and Cherney, 2011), and prisoners serving shorter sentences (Steiner and Wooldredge, 2008). Given that injustice and social disadvantage may have been a common theme in the lives of many prisoners, it remains to be seen how far past experiences of the justice system can be offset by legitimate treatment by prison staff and the correctional facility more generally.

PRISON LEGITIMACY AND DESISTANCE

Recidivism rates for prisoners are high, with typically around 45% of inmates re-convicted within one year of release (Ministry of Justice, 2016). Recidivism is particularly pronounced amongst younger male prisoners, an effect which drops off as they reach the early 30s (see

Nagin et al, 2009 for reviews). Men are also more likely to be reconvicted than women, as are offenders from minority ethnic groups (Gendreau et al, 1996), and those convicted for acquisitive crimes (Brunton-Smith and Hopkins, 2013). In contrast, prisoners serving longer sentences (over one year) are less likely to reoffend (Ministry of Justice, 2016), pointing to the possible rehabilitative effects of time in prison, combined with a natural desistance cycle of aging if prisoners leave prison sufficiently older and more mature than when they entered. Prisoners without stable social support, access to accommodation and who have substance misuse difficulties are also at higher risks of recidivism (Brunton-Smith and Hopkins, 2013).

Considering the effects of legitimacy on post-release recidivism, recent research by Beujersbergen and colleagues (2016) in the Netherlands demonstrated that legitimate and procedurally fair treatment of prisoners during their sentence was associated with lower recidivism risk up to 18 months after release. In particular, they highlight the role played by prison officers and the quality of treatment they provide prisoners with during their sentence, pointing to durable benefits for instilling compliance with the law. Yet, it remains unclear whether or not these results can be generalized beyond the Netherlands – a nation with a history of humane treatment of prisoners. They also relied on a sample of prisoners serving comparatively short sentences (up to a maximum of 9 months), with the possibility remaining that prisoners serving longer sentences - with a higher likelihood of negative experiences in prison, combined with greater re-entry challenges due to longer time incarcerated - may experience fewer benefits of legitimate and procedurally fair treatment. Similar findings have also been found when assessing more general beliefs about legitimacy and its effects on recidivism risk. For example, Rocque et al., (2013) found that prisoners who have higher ratings of legitimacy (measured as prosocial beliefs, including trust in authority) when they leave prison are less likely to reoffend.

Considering other high-risk offender groups, Paternoster et al., (1997) show that amongst offenders subject to mandatory arrests for domestic violence offences, those who perceived their treatment by police as procedurally fair were less likely to be re-arrested than those treated in procedurally unfair ways. These effects held even when controlling for the background of the offender and prior history of domestic violence, with compliance shown to be relatively long-term (offenders were tracked for 14 months). Similarly, Wallace et al., (2016) found notable reductions in recidivism risks amongst those gang-associated parolees enrolled on a program designed to strengthen legitimacy and perceptions of legal fairness. The association between higher ratings of legitimacy and lower offending risk has also been established in other studies (Fagan and Piquero, 2007; Penner et al, 2013).

But desistance is more complex than simple considerations of recidivism risk, with a softer conceptualization of desistance allowing for some slippages back to reoffending alongside a more general cognitive and behavioral shift away from offending. A key consideration is the underlying psychological change in offenders towards what Maruna (2001) has called a 'revised prosocial identity' – a new version of oneself which attempts to distinguish from a past offending self. Desistance has been operationalized largely through two theoretical mechanisms: social control theory associated with offenders' activation of bonds to people and society (Sampson and Laub, 1995); and symbolic interactionism allied with changes in offender self-identities and cognitive beliefs (Maruna, 2001; Giordano et al, 2002). Both have overlapping characteristics which are important to consider in the context of post-release desistance. Whereas the seeds of desistance may be sowed in prison for some inmates (in terms of changes in self-identity and remorse for the offences committed), these cognitive changes are impeded by the well-documented structural challenges of readapting to life during re-entry (Petersilia, 2003; Travis, 2005). Thus whilst 'cognitive transformations' (Giordano et al, 2002) may be built during the prison sentence, the extent to which they can

be deployed successfully to avoid a life of crime after release presents a particular difficulty for many prisoners.

Giordano et al (2002) introduce the theory of 'cognitive transformation', which 'operate[s] as catalysts for lasting change when they energize rather fundamental shifts in identity and changes in the meaning of deviant/criminal behavior itself' (p.992). This transformative process – in terms of attitudes towards offending – should be understood as an important lever underpinning the facilitation of aspects of social control theory (e.g. finding work, developing familial relationships) that are more commonly attributed to desistance pathways. Whilst the theory of cognitive transformation is certainly plausible, less well understood are the specific processes and experiences involved in shaping these cognitive transformations. We hypothesize a link with prison time as one potential area where cognitive transformations may be garnered, specifically occurring through legitimate interactions with prison staff and the social conditions of their confinement. As Bottoms and Shapland (2011) have noted, the development of prosocial attitudes and *strong will* to desist may be effectively formed when offenders develop supportive and what they term 'morally virtuous' relationships with criminal justice professionals (see also Farrall, 2002; Liebrich, 1993).

DATA

To test the empirical linkages between perceptions of legitimacy and desistance from crime we use data from the Surveying Prisoner Crime Reduction (SPCR) study. This is a large-scale longitudinal survey of prisoners in England and Wales, with interviews conducted on reception to prison, again prior to release, and a third time two months after release. The survey adopted a multi-stage clustered sample design, with prisons included in the sample frame if they had a minimum monthly intake of at least 10 prisoners. Within each eligible prison, samples of recently arrived prisoners (within 2-5 weeks of reception[i]) were selected.

Prisoners serving longer sentences (over 18 months) and females were both over-sampled to ensure a sufficient number of these offenders were included in the dataset. All prisoners interviewed at wave 1 were eligible for re-interview pre- and post-release, with the follow up interviewers scheduled two weeks prior to release and two months after release. Prisoner records were also matched with information from the Police National Computer (PNC) on reoffending and offending histories. Record linkage was not possible in all instances, with incomplete PNC data for 271 cases. The final analytic sample is therefore 2,841 prisoners sentenced in 2005 and 2006 to between 1 month and 4 years.[ii] The original sample was broadly representative of the prison population (Cleary et al., 2012), with a response rate of 60%.

Perceived legitimacy

Central to the ideas of procedural justice is that greater compliance and cooperation with the law will be achieved when it is perceived that the law is being employed in a fair and consistent manner. For prisoners, this is achieved when inmates believe that staff are a legitimate source of control (Liebling, 2004). To measure prisoner perceptions of staff legitimacy we use a total of 10 items covering perceptions of prisoner-staff relations, fair treatment, support, and perceptions of staff honesty and integrity. All questions are measured on a 5 point likert scale from strongly disagree (1) to strongly agree (5).

1. I feel I am trusted quite a lot in this prison
2. Relationships between staff and prisoners in this prison are good
3. I trust the officers in this prison
4. I am being looked after with humanity here
5. Overall, I am treated fairly by staff in this prison

6. I have been helped significantly with a particular problem by a member of staff in this prison

7. I receive support from staff at this prison when I need it

8. Staff in this prison often display honesty and integrity

9. Personally, I get on well with the officers on my wing

10. Staff help prisoners to maintain contact with their families

All 10 items were combined using Confirmatory Factor Analysis (CFA). Both a single-factor, and two-factor specification were assessed, with the two-factor specification distinguishing between trust (items 1-5) and respect (items 6-10). The two-factor solution did not produce a clear improvement in model fit and the two factors were highly correlated (.98), suggesting a single factor solution is appropriate. This single-factor solution is consistent with Henderson et al., (2010), which demonstrated that when prisoners form judgments about staff, these views encompass beliefs about their honesty and integrity, as well as experiences of fair treatment and evaluations of trustworthiness. The factor loadings are included in appendix Table A.1.

Prisoner beliefs about future reoffending

Desistance is measured by prisoners' own assessments of their likelihood of reoffending. This allows us to identify 'softer' desistance tendencies that may not be accurately reflected in official reconviction data. For some ex-prisoners the lived reality post-release may lead to additional convictions, even if they have experienced a more general shift in their attitudes towards offending. Despite some mixed results regarding whether those offenders exhibiting desistance-orientated attitudes *actually* avoid reoffending (Banse et al, 2013; Shapland and

Bottoms, 2011), by asking prisoners to report on their own likelihood of reoffending, we are able to capture those ex-offenders who show the *intention* to desist from crime.

Attitudes towards offending are measured in the wave 2 interview prior to release from prison, and again in the months following release during the wave 3 interview. At each occasion, we use data from 5 items measuring beliefs about offending, with each item measured on a 5-point likert scale from strongly disagree (1) to strongly agree (5).

1. I will always get into trouble
2. Crime has now become a way of life for me
3. I definitely won't get into trouble with the police after my release (reverse coded)
4. If things go wrong for me, I might offend again
5. I wouldn't commit the offence(s) again (reverse coded)

Responses are combined using CFA to form a single latent variable at each measurement occasion, with higher scores representing a higher perceived likelihood of reoffending in the future. Full factor loadings are included in Appendix table A.1.

Proven reoffending

In addition to prisoner beliefs about their own future offending, we examine the links from legitimacy to more formal recidivism risk. Prisoner records were therefore matched with the Police National Computer (PNC), allowing us to identify those ex-prisoners that came back into contact with the criminal justice system following release. Here we focus on those offenders who were convicted of a further offence 12 months after release (conviction in court may have occurred up to six months later), including those offences that resulted in other court disposals (e.g. warnings, reprimands, cautions).

Prisoner characteristics

We include prisoner background characteristics to account for other potential determinants of desistance from crime. From the wave 1 interview we include prisoner gender, age, ethnicity, sentenced offence, and length of sentence. The education level of each prisoner is also recorded, distinguishing those with no qualification from those with GCSEs, A levels, those with degrees, and those with non-traditional qualifications (including international and vocational qualifications). Those offenders who reported that they had been expelled from school or played truant are also identified. Finally, we also include a binary measure indicating whether the offender had other family members that had also been convicted of a criminal offence.

From the wave 3 survey (administrated after prisoners were released from prison) we identify those offenders that reported being homeless or living in temporary accommodation at the time of interview, as well as those that admitted using drugs (distinguishing class A and class B/C) in the 4 weeks prior to the interview. We also include a measure of prior offending history from the PNC, with higher scores allocated to those offenders that have had more convictions, on average, per year.[iii]

Experience of prison

In addition to prisoner background characteristics, we also include details of prisoners' time within prison. To control for prisoner's initial interactions with staff on arrival to prison we include data from three survey items measured during the original interview that are combined using CFA to form a single latent variable (Table A1). Finally, we include details of prisoners' assessments of the conditions within prison, combining data from three separate items (Table A1).

ANALTYIC STRATEGY

Tyler's (2006) model of procedural justice highlights the role that legitimacy can play in increasing compliance with the law. Focusing on compliance with the police, Tyler emphasizes the normative dimension of legitimacy. A greater alignment between the values of individuals and the formal institutions of justice (i.e. the police, or prison staff) leads people to feel a greater moral and ethical obligation to comply with the law. In the current analysis, we expect a similar process is in operation, with those prisoners believing prison staff operate in a fair and consistent way conferring a greater sense of trust and confidence in other justice institutions, in turn making them more likely to comply with formal rules on exit from prison.

To assess this possibility we use a latent variable modelling approach (Bollen, 1989) to examine whether prisoner perceptions of staff legitimacy translate into compliance with the law following release. This allows us to correctly account for measurement error associated with prisoner perceptions of legitimacy (and our measures of initial treatment, prison conditions, and beliefs about future offending). We estimate models examining the links between perceptions of legitimacy and beliefs about future reoffending (pre-release and post-release). We also examine whether perceptions of legitimacy subsequently translate into reduced recidivism (one year after release). All models control for prisoner background, experience of prison, and details about their sentenced offence. We also include information about prior offending history, which accounts for additional unmeasured drivers of offending behavior. Prior offending history is strongly related to reoffending (e.g. Brunton-Smith and Hopkins, 2013), but may mask more subtle influences on the pathway to desistance. For offenders with more extensive offending histories, the behavioral cycle underpinning their crimes and higher likelihood of frequent contact with criminal justice agencies may create

considerable challenges to repair in terms of the legitimacy-desistance link. This is further supported by evidence which finds that more serious offenders tend to have more cynical attitudes to criminal justice agencies (Reisig et al, 2011), which could result in these offenders being more sensitized to subsequent negative interactions with prison authorities (see Skogan, 2006 for examples in policing). Models are therefore estimated with and without this effect.

Missing data

Although the original sample was broadly representative of the prison population, the survey experienced considerable attrition in the follow up interviews, with only 62% successfully re-interviewed prior to release and similar numbers (59%) interviewed again after release. With such a high degree of attrition, unadjusted results may be biased, leading to incorrect inferences (Rubin, 1987). All models are therefore estimated following Multiple Imputation.

Multiple Imputation has been shown to be a robust solution to the problem of attrition when data can be assumed Missing at Random (MAR: Rubin, 1987) – the chances of data being missing is unrelated to the missing values, conditional on any included covariates. Research by Brunton-Smith et al., (2014) into the reasons for attrition in SPCR suggest that the MAR assumption is plausible, with fewer than 10% of prisoners actively opting out of the survey at each wave. Instead the high levels of nonresponse at wave 2 were primarily a result of an insufficient lead-in time to secure re-interview and at wave 3 nonresponse was the result of unsuccessful contact due to inaccurate address details.

To account for missing data we first estimate an imputation model, including variables that are predictive both of missingness and (at least plausibly) the values of the incomplete variables measured at wave 2 and wave 3. This includes the full range of background characteristics in our analytic model of interest (measured at wave 1, and hence

fully observed), as well as the additional 'auxiliary' variables identified in Brunton-Smith et al (2014) as predictive of missingness[iv]. The imputation model is used to generate plausible values for all missing cases, completing the dataset. A total of 20 'complete' datasets are generated from the imputation model, with the analytic models then estimated using each dataset and the combined results summarised using Rubin's rules (Rubin, 1987). This ensures that the uncertainty associated with the missing values is correctly carried through to the model of interest. Both the imputation model and our analytic models are estimated in Mplus (Muthén and Muthén, 1998-2012).

RESULTS

Table 1 includes results from three models linking prisoner perceptions of legitimacy to beliefs about their own likely reoffending. Consistent with the procedural justice framework, we find that those offenders holding more positive views about legitimacy are significantly less likely to believe that they will go on to reoffend when interviewed prior to release (model 1). This is true, even when account is taken of offenders' prior offending histories (model 2), with only a marginal reduction in effect size. Importantly, these lower reoffending tendencies are still evident when offenders were re-interviewed after release from prison (model 3), suggesting that legitimacy may be contributing to a more fundamental change in prisoner pro-social attitudes following release from prison.

Insert table 1 here

In addition to the direct link from legitimacy to beliefs about desistance, a number of other prisoner characteristics are associated with increased desistance tendencies. Female prisoners and those serving longer prison sentences are less likely to believe they will go on to

reoffend. Younger offenders, prisoners with more educational qualifications and those that hold more favorable views of prison conditions are also less likely to think they will reoffend, although these effects are only evident prior to release from prison. In contrast, those offenders that admitted playing truant from school, or who have family members that have been convicted of an offence, are significantly less likely to exhibit desistance tendencies. Beliefs about desistance are also informed by post-release risk factors, with drug users and those individuals that are homeless or living in temporary accommodation being less likely to think they will desist from crime. Those offenders with a more extensive prior offending history are also substantially less likely to exhibit desistance tendencies, confirming the powerful effect that past experiences of offending can have on future reoffending.

Turning to formal recidivism risk (table 2), we identify a significant association between legitimacy and reoffending in model 4. Here we see that those offenders who hold more positive views of the legitimacy of staff are less likely to be reconvicted of an offence within a year of release. However, when account is also taken of offenders prior offending history (model 5), this effect is no longer identified as significant, suggesting that whilst perceptions of legitimacy may play a moderate role in reducing actual reoffending behavior, this is outweighed by the cumulative impact of prior involvement in criminal activity.

Insert table 2 here.

A number of additional characteristics are also associated with a reduced likelihood of reoffending, mapping closely with prior research findings. Consistent with more general beliefs about desistance, reoffending is generally lower amongst women and those serving longer prison sentences, and higher amongst those that reported using drugs since release

from prison and those that are homeless or in temporary accommodation. Older offenders are also less likely to reoffend, whilst offending tends to be higher amongst those that played truant or were expelled. When account is also taken of prior offending history (which is strongly associated with reoffending), many of these effects reduce substantially in magnitude, with the effects of truanting and being expelled no longer statistically significant (in addition to legitimacy).

DISCUSSION

Previous studies have identified the role that procedurally fair responses can have in encouraging compliance with the law amongst offenders (Berjersbergen et al, 2016; Paternoster et al., 1997; Fagan and Piquero 2007; Penner et al., 2013; Wallace et al., 2016). This study develops these ideas further by examining the relationship between prisoner perceptions of staff legitimacy and attitudes towards offending, as well as whether these attitudes then correspond with actual reduced recidivism risk following release from prison. Focusing on those at the 'sharp end' of the criminal justice system provides an important insight into the extent that ideas of procedural justice operate when contact with criminal justice agencies is intensive and (at times) adversarial.

Many empirical accounts of penal institutions have documented the adversities faced by prisoners in adapting to life inside. This includes an array of physical and emotional insecurities, as well as being confronted with a profound sense of powerlessness regarding their fates inside prison (Sykes, 2007; Haney, 2003; Listwan et al., 2013). The negative treatment of prisoners during their sentence can communicate to prisoners their lack of worth or value as human beings, or in Haney's (2003: 11) words 'as "the kind of person" who deserves only the degradation and stigma to which they have been subjected while incarcerated'. In particular, negative contact can affect how offenders conceive of themselves

as possessing value and a moral purpose in life, the extent to which they perceive control over their own futures, and whether they can move beyond a past self-identity associated with crime (Bottoms and Shapland, 2011; Maruna, 2001; Paternoster and Bushway, 2009).

In contrast to this focus on the negative impacts of prison, our data show a significant link exists between legitimacy ratings and prisoners possessing positive intentions to desist from crime. Prisoners that report positive levels of trust in, and respect for, prison staff have demonstrably more favorable assessments of their own likely desistance prior to release from prison. And these desistance tendencies remain when prisoners are released, suggesting a more sustained impact of positive interactions with prison staff. This points to the ways that prison authorities can help prisoners to reflect on their offending, operating as a catalyst for change akin to what Giordano et al (2002) term 'cognitive transformation'.

But the connections with post-release recidivism are more limited, and outweighed by the cumulative effects of prior involvement in crime. The fact that perceptions of legitimacy does not automatically translate into *actual* cessation of offending on release is not, perhaps, that surprising. Whilst prisons may help *change* some prisoners inside, it cannot affect the *conditions* of their re-entry outside. Time in prison may be productive for some prisoners in forming a revised prosocial identity (Maruna, 2001), but the challenging structural conditions outside of prison which prisoners face limit the realization of these intentions to desist. Newly released prisoners are met with a challenging re-entry pathway in which they may return home to similar, or even worse life circumstances than when they entered prison. Limited job opportunities, greater access to drugs, antisocial community networks and peer connections, and limited finances may all play a role in prompting recidivism, even amongst those that demonstrate a willingness to change (Travis, 2005; Nagin, Cullen and Jonson, 2009). This is a common message that permeates much re-entry research – regardless of

prisoners personal devotion to ‘go straight’ and cultivate a path towards desistance during their time in prison, the tough realities of life outside often outweigh these effects.

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Table 1. The link from perceptions of prison staff legitimacy to beliefs about desistance pre and post release

	Model 1: Pre-release desistance				**Model 2: Pre-release desistance**				**Model 3: Post-release desistance**		
	B	**SE**	**Std. B**		**B**	**SE**	**Std. B**		**B**	**SE**	**Std. B**
Legitimacy	-0.13**	0.03	-0.15		-0.10**	0.03	-0.11		-0.09**	0.03	-0.10
Age	0.00	0.00	0.03		0.00*	0.00	0.05		0.00	0.00	0.03
Female	-0.23*	0.05	-0.13		-0.18**	0.05	-0.10		-0.08*	0.04	-0.05
Black and Minority Ethnic (BME)	-0.10**	0.04	-0.06		-0.06	0.04	-0.04		0.00	0.04	0.00
Sentenced offence (ref: violence)											
Acquisitive	0.20**	0.04	0.15		0.13**	0.04	0.09		0.03	0.04	0.02
Drug	0.15**	0.05	0.10		0.12*	0.05	0.08		0.03	0.04	0.02
Motoring	0.22**	0.08	0.08		0.15	0.08	0.06		-0.04	0.08	-0.01
Other	0.00	0.04	0.00		0.01	0.04	0.00		-0.01	0.04	0.00
Details unavailable	0.22*	0.11	0.05		0.19	0.11	0.04		0.12	0.10	0.03
Sentence Length (ref: under 6 months)											
6 months - 1 year	-0.14	0.10	-0.05		-0.10	0.10	-0.04		-0.09	0.08	-0.03
1 year - 18 months	-0.27**	0.09	-0.15		-0.19*	0.09	-0.11		-0.37**	0.07	-0.21
18 months - 2 years	-0.33**	0.08	-0.22		-0.24**	0.08	-0.16		-0.32**	0.08	-0.22
2 years - 3 years	-0.36**	0.09	-0.27		-0.27**	0.09	-0.20		-0.34**	0.07	-0.26
3 years - 4 years	-0.31**	0.10	-0.17		-0.21*	0.09	-0.12		-0.35**	0.08	-0.20
Education (ref: no formal qualifications)											
GCSE	-0.09**	0.03	-0.07		-0.07*	0.03	-0.05		-0.04	0.03	-0.03
A level	-0.15**	0.05	-0.08		-0.09	0.05	-0.05		-0.07	0.05	-0.04
Degree or higher	-0.16*	0.06	-0.06		-0.07	0.07	-0.03		-0.05	0.06	-0.02
Other education	-0.09	0.07	-0.03		-0.06	0.06	-0.02		-0.12	0.07	-0.04
Truant from school	0.15**	0.03	0.12		0.10**	0.03	0.08		0.11**	0.03	0.09
Expelled from school	0.11**	0.03	0.08		0.04	0.03	0.03		0.04	0.03	0.03
Family member offended	0.13**	0.03	0.10		0.10**	0.03	0.08		0.09**	0.03	0.07
Prison conditions	-0.05	0.04	-0.04		-0.07*	0.03	-0.07		0.00	0.04	0.00
Initial treatment	-0.02	0.03	-0.02		-0.01	0.03	-0.02		-0.05*	0.02	-0.07
Homeless	0.35**	0.11	0.10		0.29**	0.11	0.08		0.26**	0.08	0.07
Drug use prior to sentence (none)											
Class A	0.31**	0.05	0.20		0.24**	0.04	0.16		0.30**	0.04	0.20
Class B/C	0.10*	0.04	0.08		0.09*	0.04	0.07		0.13**	0.03	0.10
Boost sample	0.13*	0.06	0.09		0.13**	0.06	0.09		0.06	0.05	0.04
Prior offending history					0.21**	0.02	0.29		0.19**	0.02	0.27
Sample size	2,841				2,841				2,841		
RMSEA/ CFI/ TLI	.022/ .944/ .940				.022/ .942 /.938				.021/ .943 /.939		

*p<.05, **p<.01

Table 2. The link from perceptions of prison staff legitimacy to post-release reoffending

	Model 4: Proven reconviction				**Model 5: Proven reconviction**		
	B	**SE**	**Std. B**		**B**	**SE**	**Std. B**
Legitimacy	-0.14*	0.06	-0.08		-0.06	0.06	-0.03
Age	-0.02**	0.00	-0.13		-0.02**	0.00	-0.12
Female	-0.46**	0.10	-0.13		-0.37**	0.10	-0.10
Black and Minority Ethnic (BME)	-0.04	0.08	-0.01		0.045	0.08	0.01
Sentenced offence (ref: violence)							
Acquisitive	0.55**	0.08	0.21		0.34**	0.08	0.12
Drug	0.01	0.09	0.00		-0.06	0.09	-0.02
Motoring	0.36**	0.13	0.07		0.15	0.13	0.03
Other	0.14	0.09	0.05		0.10	0.10	0.03
Details unavailable	0.08	0.19	0.01		0.01	0.21	0.00
Sentence Length (ref: under 6 months)							
6 months - 1 year	0.09	0.14	0.02		0.20	0.15	0.03
1 year - 18 months	-0.57**	0.14	-0.16		-0.43**	0.15	-0.11
18 months - 2 years	-0.71**	0.14	-0.25		-0.52**	0.14	-0.17
2 years - 3 years	-0.66**	0.14	-0.25		-0.47**	0.14	-0.17
3 years - 4 years	-0.70**	0.15	-0.20		-0.48**	0.16	-0.12
Education (ref: no formal qualifications)							
GCSE	-0.06	0.06	-0.02		0.00	0.07	0.00
A level	-0.34**	0.10	-0.09		-0.21*	0.11	-0.05
Degree or higher	-0.28	0.15	-0.05		-0.07	0.16	-0.01
Other education	-0.02	0.15	0.00		0.04	0.16	0.01
Truant from school	0.22**	0.06	0.09		0.10	0.06	0.04
Expelled from school	0.27**	0.06	0.11		0.10	0.06	0.04
Family member offended	0.03	0.06	0.01		-0.06	0.06	-0.02
Prison conditions	0.06	0.08	0.02		-0.02	0.09	-0.01
Initial treatment	0.02	0.05	0.01		0.04	0.05	0.02
Homeless	0.64**	0.18	0.09		0.49**	0.18	0.06
Drug use prior to sentence (none)							
Class A	0.41**	0.08	0.14		0.24*	0.09	0.08
Class B/C	0.11	0.09	0.04		0.07	0.09	0.02
Boost sample	-0.04	0.11	-0.01		-0.04	0.11	-0.01
Prior offending history					0.61**	0.05	0.41
Sample size	2,841				2,841		
RMSEA/ CFI/ TLI	.025/ .945/ .939				.025/ .943/ .937		

*p<.05, **p<.01

APPENDIX

Table A.1. Factor loadings for latent variables

	Loading	S.E	Std. estimate
Staff legitimacy[1]			
I have been helped significantly with a particular problem by a member of staff in this prison	1.00	0.00	0.60
I receive support from staff at this prison when I need it	1.11	0.04	0.74
I feel I am trusted quite a lot in this prison	0.96	0.05	0.64
Staff in this prison often display honesty and integrity	1.04	0.04	0.75
Relationships between staff and prisoners in this prison are good	0.99	0.04	0.76
I trust the officers in this prison	1.15	0.05	0.77
I am being looked after with humanity here	0.91	0.04	0.73
Personally, I get on well with the officers on my wing	0.73	0.04	0.68
Overall, I am treated fairly by staff in this prison	0.84	0.04	0.74
Staff help prisoners to maintain contact with their families	0.94	0.05	0.62
Prison conditions[1]			
I am given adequate opportunities to keep myself clean and decent	1.00	0.00	0.79
I am given adequate opportunities to keep my living area clean and decent	1.08	0.04	0.80
This prison provide adequate facilities for me to maintain a presentable appearance	0.97	0.04	0.68
Initial treatment[1]			
When I first came into this prison I felt looked after	1.00	0.00	0.73
In the first few days in this prison, staff treated me as an individual	0.90	0.04	0.67
The induction process in this prison helped me know what to expect in the daily regime and when it would happen	0.82	0.04	0.56
Likelihood of reoffending (pre-release)[1]			
I will always get into trouble	1.00	0.00	0.73
Crime has now become a way of life for me	1.15	0.04	0.78
I definitely won't get into trouble with the police after my release (reverse coded)	1.16	0.04	0.69
If things go wrong for me, I might offend again	1.37	0.05	0.77
I wouldn't commit the offence(s) again (reverse coded)	0.98	0.04	0.61
Likelihood of reoffending (post-release)			
I will always get into trouble	1.00	0.00	0.73
Crime has now become a way of life for me	1.06	0.03	0.77
I definitely won't get into trouble with the police after my release (reverse coded)	0.95	0.05	0.57
If things go wrong for me, I might offend again	1.35	0.05	0.77
I wouldn't commit the offence(s) again (reverse coded)	1.02	0.05	0.60

[1] The reported factor scores are from Model 1 (attitudes to offending prior to release). Scores are very similar when considering model 2, 3, and 4

Notes

[i] The eligibility criteria was extended to six months for prisoners serving longer sentences (over 18 months) to ensure a sufficient sample could be obtained.

[ii] An additional 737 prisoners serving short sentences were included in the original sample. However, these prisoners were not part of the pre-release interviews so no data on perceptions of legitimacy was available for this group.

[iii] This is measured by the Copas rate (Copas and marshall, 1998) calculated as ln(n+1)/c+10, where n is the total number of court appearances or cautions, and c is the total length of their criminal career in years.

[iv] Auxiliary variables: English as a foreign language; lived with family prior to sentence; no access to registered doctor; Prior offences for robbery; consented to address matching (w2);

consented to additional matching (w2); high non-contact rate prison (w2); high refusal rate prison (W2)